

**SETTLEMENT COMMUNICATION**  
**SUBJECT TO US/CARB/KOHLER CONFIDENTIALITY AGREEMENT**  
**CONTAINS CONFIDENTIAL BUSINESS INFORMATION**

Sept. 5, 2018

**VIA FTP SITE**

Ryan Bickmore  
U.S. EPA Region 9  
Office of Regional Counsel  
75 Hawthorne Street, 12th Floor (ORC-2)  
San Francisco, CA 94105

Shannon Dilley  
California Air Resources Board  
1001 I St Fl 23  
Sacramento, CA 95814

Jocelyn Adair  
Vehicle and Engine Enforcement Branch  
Air Enforcement Division  
Office of Enforcement and Compliance  
Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Patricia L. Hurst  
Senior Counsel  
US Department of Justice  
Environment and Natural Resources Division  
Environmental Enforcement Section  
601 D Street, NW, Room 2121  
Washington DC 20004-2904

Kurt Weissmueller  
Office of the Attorney General  
300 S Spring St  
Los Angeles, CA 90013

Josh Caplan  
Deputy Attorney General  
Office of the Attorney General  
300 S Spring St  
Los Angeles, CA 90013

Re: Responses to information request on behalf of Kohler Co.

Dear Ryan, Shannon, Jocelyn, Patti, Kurt, and Josh,

We are writing to provide a response to the agencies' requests arising from our August 2 meeting regarding Delphi EFI engine families Kohler Co. ("Kohler") sold in Model Year 2016. Attached please find a timeline that summarizes Kohler's extensive communications throughout 2016 with both EPA and the ARB regarding Delphi EFI

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(b) (4)

(b) (4) We are also attaching a set of documents that support the facts as presented in this timeline; these documents are also cross-referenced therein. Kohler has already submitted all of these materials to the agencies; we have collected and assembled them here to facilitate your review with respect to 2016 activities.

In totality, the Company proactively self-disclosed the (b) (4) and made every effort to work diligently, transparently and collaboratively with the agencies to ensure compliance in 2016. Indeed, Kohler sought to address enforcement issues at that time, and the agencies directed that instead enforcement discussions should be deferred until (b) (4). Still, Kohler sought to make sure in “real time” through initial telephone discussions and then a videoconference that the agencies understood (b) (4).

(b) (4)

Kohler made an extensive effort, in parallel to its other compliance efforts, and in consultation with the agencies, to provide a robust explanation of all of its AECDs, with sufficient documentation, for all of its engine families, including the (b) (4) EFI families as well as its many carbureted engine families. (b) (4)

(b) (4) As explained at the time, (b) (4)

(b) (4) These disclosures were included in updated running change applications for each engine family that the Company sold in Model Year 2016. The agencies approved the final version of the AECD disclosures in December, 2016.

(b) (4)

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(b) (4)

To summarize key elements of the timeline, beginning in January 2016, the Company took the following specific steps as it (b) (4) None of the engines sold following these procedures should be regarded as equipped with defeat devices.

- (b) (4)

- (b) (4)

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By the end of 2016, the agencies approved all of the running changes for the Model Year 2016 families, with the exception of running changes for the families whose certificates the agencies revoked (b) (4) (6942PC, 7472NC, 7472ND, 8242PD, and 8242ND). In those cases, EPA took the position that the running changes were not approved because the original engine could not have been properly certified. Regardless of this issue, these Model Year 2016 engines were properly tested and met all applicable requirements, just as those same engines were certified in 2017 and 2018, and did not have defeat devices.

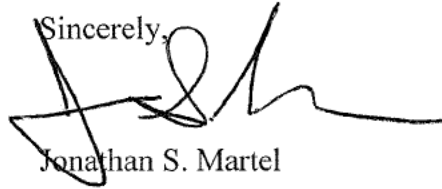
\* \* \*

We hope that this explanation of Kohler's steps in selling Delphi EFI engines in Model Year 2016 is helpful to the agencies and that you agree that, with the exception of (b) (4) these engines should not be regarded as equipped with defeat devices. Kohler made every effort to coordinate with the agencies to come into regulatory compliance through extensive testing, disclosures and detailed running change submissions that were ultimately approved, with the exception of the revoked families.

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Please note that this submission contains confidential business information protected against release under 40 C.F.R. §2.203(b) and parallel California law and regulations, and each page is so labeled pursuant to the US/CARB/Kohler confidentiality agreement.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Martel', with a long horizontal stroke extending to the right.

Jonathan S. Martel

cc:

(b) (4)

John Moore, US DOJ